

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

TRAVIS GOLDEN,

Petitioner,

v.

CASE NO. 2:05-cv-242

**JUDGE GRAHAM
Magistrate Judge Abel**

JAMES HAVILAND, Warden,

Respondent.

OPINION AND ORDER

On February 24, 2006, the Magistrate Judge issued a *Report and Recommendation* recommending that the instant petition for a writ of habeas corpus pursuant to 28 U.S.C. §2254 be dismissed as barred by the one-year statute of limitations under 28 U.S.C. §2244(d). Petitioner has objected to all of the Magistrate Judge's recommendations in the *Report and Recommendation*. Doc. No. 12. Petitioner again raises all of the same arguments that were previously raised. Specifically, petitioner again asserts that equitable tolling of the statute of limitations is appropriate as he was prevented from filing an appeal to the Ohio Supreme Court due to the inability to obtain transcripts in a timely manner.

Pursuant to 28 U.S.C. 636(b)(1), this Court has conducted a *de novo* review of those portions of the *Report and Recommendation* objected to by petitioner. For the reasons discussed at length in the Magistrate Judge's *Report and Recommendation*, petitioner's objections are **OVERRULED**. As discussed by the Magistrate Judge, the state appellate court dismissed petitioner's appeal on December 20, 2001. Petitioner waited until on February 18, 2004, to file a motion for delayed appeal

with the Ohio Supreme Court. He waited almost one year after the Ohio Supreme Court denied his motion for delayed appeal, on March 24, 2004, before filing the instant habeas corpus petition, on March 17, 2005. The record simply fails to reflect that petitioner exercised due diligence, or that the circumstances in this case are so extraordinary as to justify equitable tolling of the statute of limitations. *Griffin v. Rogers*, 308 F.3d 647, 653 (6th Cir.2002).

The *Report and Recommendation* is **ADOPTED** and **AFFIRMED**. This action is hereby **DISMISSED** as untimely.

IT IS SO ORDERED.

s/James L. Graham
JAMES L. GRAHAM
United States District Judge

DATE: March 29, 2006